

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

**IN RE: E. I. DU PONT DE
NEMOURS AND COMPANY C-8
PERSONAL INJURY LITIGATION,**

**Civil Action 2:13-md-2433
JUDGE EDMUND A. SARGUS, JR.
Magistrate Judge Elizabeth P. Deavers**

This document relates to:

***Bartlett v. E. I. du Pont de Nemours and
Company*, Case No. 2:13-CV-0170**

PRETRIAL ORDER NO. 38

July 24 and 25, 2015 Conference Order

This matter came before the Court for an in-person conference in which the Court combined a pretrial conference in the trial of Carl Marie Bartlett, and heard oral argument on forty (40) motions *in limine*, a discovery motion, and a dispositive motion. The Court will issue separate decisions on those motions. In this Pretrial Order, the Court memorializes the other issues discussed and agreed to during the two day conference/hearing as follows:

1. The parties shall jointly draft a proposed limiting instruction regarding the TSCA and the RCRA portion of DuPont's Motion *in Limine* No. 2. The parties shall submit the proposed instruction to the Court via email on September 7, 2015.
2. The parties shall jointly agree to the way in which they will address before the jury the issues of general causation, the *Leach* Settlement Agreement, other related lawsuits, and the

amount paid to their experts. The parties shall submit the agreed-upon verbiage to the Court via email on September 7, 2015.

3. The parties shall jointly draft a proposed limiting instruction regarding references to DuPont's internal exposure guidelines addressed in DuPont's Motion *in Limine* No. 10. The parties shall submit the proposed instruction to the Court via email on September 7, 2015.

4. In DuPont's Motion *in Limine* No. 11, it asks the Court to prevent mention of its Performance Chemicals Business segment, the Chemours Company, and/or any indemnification obligations between DuPont and Chemours. DuPont presented a Declaration from Associate General Counsel for DuPont that avers:

As between the parties to the *Leach* settlement agreement, DuPont remains liable for its obligations. The obligations of DuPont to the other parties under the *Leach* settlement agreement remain obligations of DuPont, regardless of the agreement by Chemours to indemnify DuPont for any payments that DuPont may be required to make related to the MDL proceedings or under the Leach settlement agreement.

(Decl. Justin M. Miller ¶ 3; ECF No. 4081-6.)

In recognition of this sworn declaration, the Court granted DuPont's motion.

5. With regard to birth defects as that issue is addressed in the briefing on DuPont's Motion *in Limine* No. 14, the parties shall jointly draft a proposed limiting instruction. The parties shall submit the proposed instruction to the Court via email on September 7, 2015.

6. With regard to the mention of C-8's effect on children as that issue is addressed in the briefing on DuPont's Motion *in Limine* No. 16, the parties shall jointly draft a proposed limiting instruction. The parties shall submit the proposed instruction to the Court via email on September 7, 2015.

7. The parties shall be prepared to discuss at the Final Pretrial Conference on September 9, 2015, any objections they have to exhibits the opposing party plans to utilize during opening statements.


8. DuPont may file a motion *in limine* related to the calculation of punitive damages that would be addressed in the second phase (if there is one) of Mrs. Bartlett's trial by August 31, 2015, and Plaintiffs shall file their response by September 7, 2015.

9. The parties shall jointly redact the three emails that are the subject of DuPont's Motion *in Limine* No. 22 in accordance with the direction given at the conference. The parties shall jointly draft a proposed limiting instruction regarding the emails and submit it to the Court via email on September 7, 2015.

10. The parties shall jointly redact the emails that are the subject of DuPont's Motion *in Limine* No. 23.

IT IS SO ORDERED.

8-27-2015
DATE


EDMUND A. SARGUS, JR.
CHIEF UNITED STATES DISTRICT JUDGE